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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 175777

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 22, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on August 18, 2016, by telephone.

The issue for determination is whether the respondent correctly approved, as modified, the petitioner's prior authorization request for PCW services at the level of 7 hours weekly, based on submitted documentation.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Robert Derendinger, RN BSN (written appearance only)  
Division of Health Care Access and Accountability  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a 58-year-old resident of Marathon County.

2. Petitioner has diabetes (type II), secondary sideroblastic anemia, chronic pain, and dysthymic disorder. Petitioner does not have any durable medical equipment. Her functional limitations include hearing, endurance and arm pain. She requires assistance with activities of daily living (ADLs), and until the current request she was authorized for weekly PCW services. Her former daughter in law is her care worker.
3. On April 5, 2016, [REDACTED], requested authorization for 32.25 hours per week PCW services, 96 hours annually as needed, and 7 hours of weekly PCW travel time, for a one-year period effective May 11, 2016, PA no. [REDACTED]. By a letter dated June 10, 2016, June 27, 2013, the respondent granted 7 hours per week of PCW care, and 3.5 hours of weekly PCW travel time.
4. The respondent granted maximum daily time for bathing. No time was entered for dressing, grooming, eating, mobility or medication assistance.

### DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code, §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3. At hearing on the issue of modification of a PA request, it is the burden of petitioner or the provider to establish the need and appropriateness of the requested services. Petitioner has done neither based on this record.

The respondent approved 7 hours of PCW services each week for the petitioner. To reach this figure the respondent initially used the Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the respondent's reviewer can then adjust to account for variables missing from the screening tool's calculations. The respondent then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner's caregiver did not provide specific times necessary for providing the PCW services, but instead testified that the requested PCW time was needed because of petitioner's unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to add more time. The problem with family members and friends being the personal care workers is that they may take more time to do care tasks due to extra carefulness or inexperience, and thus the Department has set maximum times for a typical care worker. In addition, while it is true that PCW hours were authorized in the past, it is likely that this request was the first one reviewed thoroughly by the respondent.

Petitioner's caregiver should be aware that if petitioner's provider can show a medical need for more time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the reduction to 7 hours per week was wrong.

### **CONCLUSIONS OF LAW**

The respondent's modification of the request for PCW hours was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 10th day of October, 2016

\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 10, 2016.

Division of Health Care Access and Accountability